

REMARKS

Claims 1-30 are pending. Of the pending claims, claims 1, 14 and 23 are independent. By virtue of this response, claims 1-23 are amended. Claims 24-27 are canceled. No new matter has been added.

In the Office Action, claims 1-30 are indicated as being rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application No. 09/923,320 ("Simpson") in view of U.S. Patent Application No. 10/135,929 ("Malik"). Applicant notes, however, that the Office Action also indicates that all of the features of claims 1-3, 10-14, 17, 18 and 26 are taught by Simpson. Applicant's representative contacted the Examiner to discuss this issue, and the Examiner indicated that 35 U.S.C. § 103 was the proper statutory section with which to reject these claims because 35 U.S.C. § 102 and 35 U.S.C. § 103 are essentially the same. In response, Applicant's representative noted that, where the rejection is based on a single reference disclosing all of the features of the claim, the proper basis of the rejection is 35 U.S.C. § 102 and that, where the rejection is based on a combination of references, the proper basis of the rejection is 35 U.S.C. § 103. In response, the Examiner indicated that the rejection of claims 1-3, 10-14, 17, 18, and 26 can be treated as if rejected under 35 U.S.C. § 102. Because the substance of the rejections of these claims indicates that 35 U.S.C. § 102 is the proper basis for the rejections, Applicant substantively responds to the rejection of these claims below as if they were rejected under 35 U.S.C. § 102, and substantively responds to the rejection of claims 4-9, 15, 16, 19-25 and 28-30 under 35 U.S.C. § 103.

In the event, however, that 35 U.S.C. § 103 was actually meant to be the basis for the rejection of claims 1-3, 10-14, 17, 18, and 26, then the rejection of these claims in the Office Action fails to establish a *prima facie* case of obviousness with respect to these claims at least because the rejections do not describe the subject matter not disclosed by Simpson and they do not provide a motivation to modify Simpson to obtain the claimed subject matter.

In addition, Applicant notes that the Office Action fails to make a rejection of claim 27.

Regarding the rejection of independent claim 1 as anticipated by Simpson, Applicant respectfully submits that Simpson does not describe or properly suggest all of the features of independent claim 1.

For example, independent claim 1 recites (with emphasis added) an instant messaging system that includes an electronic assistant to handle instant messages sent from a first user to an instant message program of a second user when the second user is away or offline. In particular, the assistant is configured to receive a first instant message from the first user and, in response to the first instant message, send the first user an instant message that indicates that the second user is away or offline. In addition, the assistant is configured to receive a second instant message from the first user. The second instant message contains a request that the electronic assistant take an action related to the away or offline status of the second user and, in response to the request, the assistant is configured to take the requested action.

Simpson does not describe or suggest an electronic assistant that is configured to take a requested action in response to a request in an instant message. The Office Action asserts that paragraph 0092 of Simpson discloses these features. However, paragraph 0092 simply describes a process in which a service provider automatically forwards a message from an online user to an offline user, regardless of what the message contains. Accordingly, in Simpson, the service provider does not forward the message in response to a request contained in the message. Thus, even assuming that forwarding the message is equivalent to the recited action Simpson fails to describe or suggest at least an electronic assistant that is configured to receive a second instant message from the first user, wherein the second instant message contains a request that the electronic assistant take an action related to the away or offline status of the second user and, in response to the request, take the requested action, as recited in independent claim 1.

Therefore, Applicant submits that independent claim 1, along with its dependent claims 2-13, are allowable for at least the above reasons.

Regarding the rejection of independent claim 14 as anticipated by Simpson, Applicant respectfully submits that Simpson does not disclose or properly suggest all of the features of independent claim 14.

For example, independent claim 14 recites (with emphasis added) an electronic assistant configured to handle instant messages sent from a first user to an instant message program of a second user when the second user is away or offline. The electronic assistant includes a natural language interface component configured to perform processing on an instant message to determine if the instant message is requesting that the electronic assistant take an action related to the away or offline status of the second user, and a response component configured to generate and send a response to the instant message if the natural language interface component determines that the instant message is requesting that the electronic assistant take an action related to the away or offline status of the second user, wherein the response is related to the requested action.

Simpson does not describe or suggest a response component configured to generate and send a response to an instant message if a natural language interface component determines that the instant message is requesting that an electronic assistant take an action related to the away or offline status of a second user. Simpson relates to a notification system that notifies an offline user when a particular user logs into an instant messaging system and allows the offline user to send a predetermined message to the particular user through the instant messaging system. However, in Simpson, generating and sending the predetermined message does not depend on whether an instant message from the particular user is requesting that an action be taken. Thus, Simpson fails to disclose or suggest at least a response component configured to generate and send a response to the instant message if the natural language interface component determines that the instant message is requesting that the electronic assistant take an action related to the away or offline status of the second user.

Therefore, Applicant submits that independent claim 14, along with its dependent claims 15-22, are allowable for at least the above reasons.

Regarding the rejection of independent claim 23 as anticipated by Simpson, Applicant respectfully submits that Simpson does not disclose or properly suggest all of the features of independent claim 23.

For example, independent claim 23 recites (with emphasis added) a method of handling instant messages sent to an away or offline user. An instant message sent to the away or offline user from a first user is received and the instant message received from the first user is processed to determine if the instant message indicates that the first user wants to leave a message for the away or offline user. If the processing results in a determination that the instant message indicates that the first user wants to leave a message for the away or offline user, a message left by the first user is accessed for delivery to the away or offline user, when and to where the message left by the first user should be forwarded for the second user to receive the message is determined, and the message is forwarded according to the determination of when and to where the message should be forwarded.

Although Simpson discloses sending a message from an online user to an offline user, nothing in Simpson describes or suggests at least processing the instant message received from the first user to determine if the instant message indicates that the first user wants to leave a message for the away or offline user. Instead, Simpson simply forwards a message from an online user to an offline user. No processing is done on the message to determine if the message indicates anything, much less if the message indicates that the first user wants to leave a message for the away or offline user. Thus, Simpson fails to disclose or suggest at least processing the instant message received from the first user to determine if the instant message indicates that the first user wants to leave a message for the away or offline user.

Therefore, Applicant submits that independent claim 23, along with its dependent claims 28-30, are allowable for at least the above reasons.

Regarding the rejection of claims 4-9, 15, 16, 19-25 and 28-30, which depend from claims 1, 14 and 23, under 35 U.S.C. 103(a) as being unpatentable over Simpson in view of Malik, Applicant respectfully submits that Simpson fails to disclose or suggest the features of claims 1, 14 and 23, and Malik, which describes a universal instant messaging system and was cited primarily for allegedly disclosing accessing recent history or calendar information of an away or offline user, fails to remedy the deficiencies of Simpson discussed above.

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It is believed that all of the pending issues have been addressed. However, the absence of a reply to a specific rejection, objection, issue, or comment, including the Office Action's characterizations of the art, does not signify agreement with or concession of that rejection, issue, or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment or cancellation of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment or cancellation. Applicant reserves the right to prosecute the rejected claims in further prosecution of this or related applications.

Applicant submits that all claims are in condition for allowance.

No fees are believed to be due. Please apply any charges or any credits to deposit account 06-1050.

Respectfully submitted,

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